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Before the
Federal Communications Commission
Federal Communications Commission
Office of the Secretary

Washington, DC 20554

In the Matter of

International Settlements Policy Reform
International Settlement Rates

)
)
) IB Docket No. 02-~~234~~ **324**
) IB Docket No. 96-261

**GSM Europe comments on
Notice of Proposed Rulemaking**

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About GSM Europe

GSM Europe is the European interest group of the GSM Association, the premier global body behind the world's leading wireless communications standard. GSM Europe represents around 123 operators in 50 countries/areas in Europe and counts around **370** million subscribers. The GSM Association is responsible for the development, deployment and evolution of the GSM standard for digital wireless communications and for the promotion of the GSM platform.

Summary of Comments

- GSM Europe submits that the mobile market is competitive and that mobile termination charges have fallen over the past years.
- In the past, termination rates for traffic originating overseas were often substantially *below* termination rates levied upon traffic originating domestically; termination rates for international traffic have been aligned with those levied upon traffic originating domestically. There is no longer any issue with respect to discrimination between domestic and international calls to mobiles.
- Pricing structures and price levels are to a great extent determined by the underlying structure of the market, in particular by the use of either the 'Receiving Party Pays' (RPP) or 'Calling Party Pays' (CPP). GSM Europe wants to note that the choice to use either CPP or RPP was not made by operators, nor are the subsequent disparities between markets that use different systems under the operators' control.
- Mobile termination rates in Europe are determined by the structure of that market, in particular by the 'Calling Party Pays' ("CPP") system. CPP markets necessarily exhibit different demand conditions and therefore different pricing patterns than do either "receiving party pays" ("RPP") mobile markets (because the mentioned different structure) or fixed services markets (because of the different nature of

cost structure of the businesses). GSM Europe thinks it would be quite wrong and inappropriate to compare US termination prices with European termination rates in isolation, without taking into account the overall context.

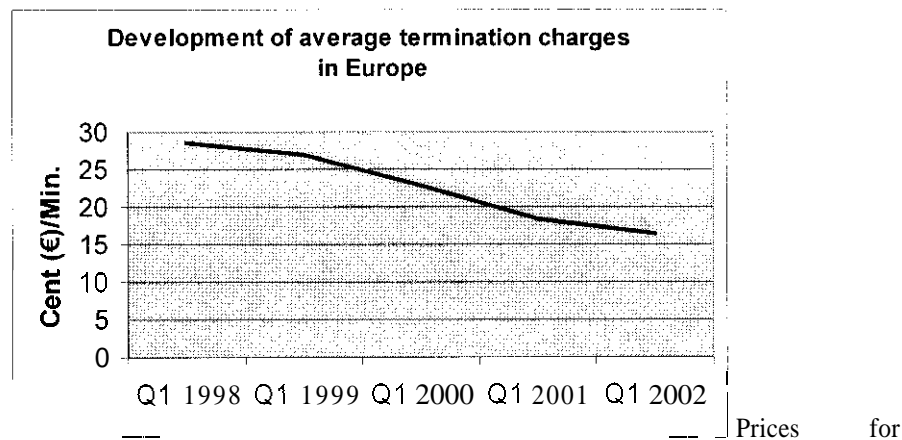
- GSM Europe would like to respectfully advise the FCC against approaching the issue of mobile call termination in a unilateral way. With mobile call termination US carriers cannot exert reciprocal bargaining power in bi-lateral relationships. Any unilateral measures would therefore not have the required effect. Concerns the FCC may have should therefore be discussed in the existing fora such as the WTO or in case of antitrust issues in the context of the transatlantic dialogue between the US and the EU.
- If there were to be any concerns about the competitive process national regulatory authorities in Europe and the European Commission provide for effective regulatory oversight. The role of these authorities should not be put into question through unilateral action by the FCC.
- GSM Europe has always considered the “hands-off” approach of the FCC in relation to the mobile sector as a precedent for Europe. We hope that the FCC does not intend to apply different standards when looking at mobile termination rates in Europe.

We would like to take the opportunity to comment on the notice of proposed rulemaking' (NPRM) on international settlement rates, in particular on Section III.D in which the issue of mobile termination rates in overseas markets with a 'Calling Party Pays' (CPP) pricing structure is raised.

I. Competitiveness of Mobile Sector

In addressing the questions raised in the inquiry GSM Europe would like to start by pointing out that the mobile market in Europe is very competitive. Despite the relatively short existence of the mobile market, its competitive character has resulted in an unparalleled geographic footprint and a continuous stream of product innovations. The future of advanced mobile data services is starting to take real shape in Europe. These services have been introduced now and European mobile operators are seen to be at the leading edge of this development. In the light of the described success of the European mobile market, it is difficult to conceive how consumers could be harmed.

2. Price trends in Mobile Termination



mobile services have continuously fallen over the past years. This is also true for mobile termination rates in Europe, as can be derived from the annexed chart.

Source OVUM (February 2002)

GSM Europe would like to point out that the high degree of competitiveness of the mobile market in Europe has led to downward pressure on fixed-to-mobile termination rates. For example, there are demand side constraints that exert such downward pressure. Findings of the UK Competition Commission consumer survey from May 2002 show that 49 % of end-users consider termination rates (i.e. the costs at which they are being called) as very or fairly important for their choice of a mobile services bundle. In several countries, such as Ireland, Denmark or Germany market forces alone have driven down mobile termination rates and the rates of these countries are in fact among the lowest in Europe. The described approach is very similar to the market-based approach adopted by the Federal Communications Commission in 1997 in CC Docket No. 96-262 to impose downward pressure on the interstate access rates charged by price-cap regulated incumbent local carriers in the United States.

Additionally, if a national regulatory authority considers that there is a problem or unbalance in a particular market, it is able to impose remedies that are proportional and adequate, assuring a sustainable competition in this market. As the Commission rightly points out, in other European countries the national regulator has decided to examine mobile termination rates which resulted in regulatory measures. In addition the European Commission is expected to give guidance in this matter through a recommendation on relevant markets by the end of 2002.

3. No discrimination between national and international termination

GSM Europe recognises that foreign mobile call termination charges have come into focus in the United States. In the past, inflated accounting rates masked cost differentials between mobile and fixed. Moreover, until recently the termination rates of European mobile operators for traffic originating overseas were often substantially

below termination rates levied upon traffic originating domestically, thereby discriminating in favour of overseas carriers. One of the undesired effects of this price differential was so-called 'tromboning' whereby fixed operators would export traffic to mobiles and re-import it to benefit from the artificially low termination charges.

While customers in Europe were used to paying different termination rates for domestic calls to fixed and mobile networks, customers in the US benefited from these artificially low termination rates. With the increasing success of mobile services and amplified by large scale tromboning, international traffic increased. Mobile operators had to take this development into consideration and to negotiate acceptable termination rates. Subsequently, domestic and overseas termination rates have been aligned. Within the European Union most operators now offer identical mobile termination rates for traffic originating from overseas and traffic originating domestically. Still, in some European countries US customers continue to benefit from lower termination rates as compared to the respective domestic rates.

The above developments have resulted in a more transparent situation which revealed the level of mobile termination rates but GSM Europe submits that this does not mean that the rates are unjustified.

4. Prices under RPP cannot be compared with efficient prices under CPP

Comparisons are often made between absolute levels of mobile termination rates between US and overseas mobile carriers and the price differences often lead to criticism about the European rates. GSM Europe, however, would like to warn against such comparisons or benchmarks. Prices under the US Receiving Party Pays (RPP) system are not comparable to efficient prices under the Calling Party Pays (CPP) structure.

Under the RPP system termination prices are expected to be substantially lower because they represent only one part of the transport service, namely the fixed path. The second part, the mobile path, is paid by the receiving network. These money flows are recovered by billing the receiving mobile customer and through subscription

prices. When assessing price levels one must take into account the total context of inter-operator payments and mobile customer retail payments. GSM Europe thinks it would be quite wrong and inappropriate for the FCC to compare US termination prices with European termination rates in isolation, without taking into account the overall context.

Within the CPP context prices are able to find equilibrium at levels that are economically efficient given the demand elasticity of the origination and termination services. Economic theory (Ramsey Pricing) informs us that under competitive circumstances an undertaking will try to recuperate more of its common cost through the services that are less price elastic. Mobile businesses have substantial common costs. Although, as mentioned earlier, mobile customers exercise demand side constraints on termination prices (because they want the disincentive for being contacted to be as low as possible) call termination services may not yet have reached the same level of demand elasticity as call origination services. As regards the different price levels of call origination and call termination services it should also be noted that the latter are not charged in connection with monthly subscription fees. All of the above elements must therefore be taken into account when comparing prices under CPP and RPP.

GSM Europe believes that customers and the market have obviously benefited from the CPP system used in Europe. It cannot be assumed that mobile markets will mature to high penetration markets 'of their own accord. The level and structure of pricing (including the ability to offer prepaid pricing) is a critical driver. There are notable instances of wealthy OECD economies with competitive mobile sectors that have failed to achieve high penetration - in particular Canada at about 29% and the United States at 41%'. The OECD suggested that a prime reason for this is the use of RPP in these markets'. As a consequence of these lower penetration rates future technological development and even GDP growth is hampered.

¹ Source: Paul **Budde** Communications, Wireless Markets 2002.

² OECD, Directorate for Science, Technology and Industry Committee for Information, Computer and Communications Policy **Working** Party on Telecommunication and Information **Services** Policies, Cellular Mobile Pricing Structures And **Trends**, May 2000, p. 20.

A further advantage of the CPP model from an economic perspective is that customers actually use their mobile handsets more than they would under RPP. Under RPP, customers have an incentive to switch off their mobiles in order not to incur expenses which they are not able to control. Given that economic benefits arise not only from mobile customers being able to call when they are away from their fixed lines but also from the additional availability of those customers, the CPP model provides for higher individual benefit and also has a positive welfare effect if network externalities are taken into account.

5. Unilateral measure regarding termination rates will not have the desired effects

GSM Europe would like to respectfully advise the FCC against approaching the issue of mobile call termination in a similar way as benchmark settlement rates. The US was able to successfully apply measures under the Benchmarking Order because US carriers could exert reciprocal bargaining power in bi-lateral relationships. With mobile termination rates this is not the case, mainly because the United States has adopted a Receiving Party Pays (RPP) structure under which mobile termination rates are recognised as bearing no relation to cost or inter-operator payments. Any unilateral measures would therefore not have the required effect.

Given the above, GSM Europe submits that there is no need for the FCC to address the matter of mobile termination rates in Europe. Any unilateral action by the FCC, e.g. consisting in measure comparable to those described in the NPRM regarding international settlement, would not take into consideration the different character of the mobile industry which has always been competitive. Considering the different regimes in Europe and the US (CPP-RPP), concerns regarding termination rates should therefore be discussed in the existing fora such as the WTO or in case of antitrust issues in the context of the transatlantic dialogue between the US and the EU.

Finally, GSM Europe would like to highlight that we have always pointed to the

“hands-off” approach of the FCC in the mobile sector as a precedent for Europe.
We assume that the FCC does not intend to apply different standards when looking at mobile termination rates in Europe.

Respectfully submitted,

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